

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,3,4,10,12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikeda et al (6,681,363).

Regarding claim 1, Ikeda discloses an information recording/playback apparatus (Fig. 1, Abstract, column 5, lines 4-62) that records/replays data on/from a recording medium, the apparatus comprising:

determination means for determining before data recording/playback is started whether the data correspond to data to be recorded/replayed in real time or data to be recorded/replayed with accuracy; and

control means for deciding a process to be executed upon error occurrence during the data recording/playback based on a determination result obtained by the determination means.

Method claim 10 corresponds to apparatus claim 1. Therefore method claim 10 is rejected by the same reason as applied to apparatus claim 1.

Regarding claims 3 and 12, Ikeda further teaches the information recording/playback apparatus as claimed in claim 1 or 2, wherein the data to be recorded/replayed in real time are video data (column 2, lines 10-15, column 6, lines 1-25).

Regarding claims 4 and 13, Ikeda further teaches the video data are data compressed according to a moving image compression standard (column 2, lines 10-15, column 6, lines 1-25).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 2, 5, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda et al in view of Kawada et al (7,120,251).

Regarding claims 2, 5, 11 and 14, Ikeda does not teach using predetermined information to detect the data is real time data .

Kawada teaches using predetermine information for real time data (Fig. 12, column 21, lines 35-40). It would have been obvious to one of ordinary skill in the art to modify Ikeda with Kawada by using predetermined information with the data to identify that the data is real time data therefore accurately access the data .

5. Claims 6- 9 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda et al in view of Kawashima et al (20020064379 A1).

Regarding claims 6-9 and 15-18 , Ikeda does not teach retry operation for correcting the errors in the data.

Kawashima teaches means for correcting the errors in recording and reproducing data by retry operations (paragraphs 0122-0123, Fig. 13).

It would have been obvious to one of ordinary skill in the art to modify Ikeda with Kawashima by providing the apparatus of Ikeda with a retrying operation means as taught by Kawashima for correcting the errors in the data thereby enhancing the capacity of the apparatus of Ikeda .

### ***Response to Arguments***

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6. Applicant's arguments filed 01 March 2010 have been fully considered but they are not persuasive.

In Remarks, page 8, applicant argues that Ikeda fails to teach "determining ... whether data [is] to be recorded/replayed in real time or... with accuracy" (emphasis added). The reason this determination is made is that there is a separation between PC data and video data. Specifically, the specification states that "PC data is preferably recorded/replayed with accuracy rather than data processing speed. On the other hand, video data are preferably recorded/replayed in real time in order to avoid the occurrence of interruptions and halts in the video." (Applicant's specification, page 21, lines 3-11). Accordingly, it is beneficial to first determine which type of data, PC or video, is about to be recorded/replayed. . In response, it is noted that applicant argument does not reflect the claims. Nowhere in the claims do they recite the PC data and /or video data and the PC data is preferable recorded/replayed with accuracy rather than the processing speed. Further, it is submitted that Ikeda at column 5, lines 10-27, teaches determining if the data is reproduced with accuracy – the data needed to be corrected with parity codes or the data is real time data the data reproduce without being corrected.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gotoh teaches a recording/reproducing apparatus having a determining means for determine the data is real time data or non real time data .

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8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571)272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Q. Tran can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUY T NGUYEN/

Primary Examiner, Art Unit 2621